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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/863,092	05/22/2001	Donald R. Glover	7590.24US01	9012

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EXAMINER

BOTTORFF, CHRISTOPHER

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 10/02/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/863,092

Applicant(s)

GLOVER, DONALD R. *h*

Examiner

Christopher Bottorff

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement (IDS) submitted on August 27, 2001 has been considered by the examiner.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 11, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Null et al. US 5,947,495.

Null et al. discloses a toy sled having a body 20 and a plurality of wheeled items 50 and 60. See figures 1 and 2. The body includes a top surface 21 adapted for receiving a rider and a bottom surface 22 adapted for receiving the wheeled items. Also, the bottom surface has engagement regions for receiving the wheeled items, wherein the regions are located in the vicinity of mechanisms 31 and 41.

The wheeled items are floor scooters that are removably secured to the bottom surface of the body through attachment mechanisms 31 and 41. Also, a plurality of wheels 55a, 55b, 65a, and 65b are rotatably connected to a base piece of the wheeled item.

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 8, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Null et al. US 5,947,495 alone.

Null et al. does not disclose that the body comprises a polymeric material, particularly polyethylene. However, Applicant has indicated that this is not a critical feature of the invention and that the body can be made from any material. See page 5, lines 26-28 of the specification. The criticality of the claimed polymeric material must be established before such a distinction may be relied upon as evidence of unobviousness. Compare *In re Fields*, 304 F.2d 691 (CCPA, 1962) and *In re Russell* 439 F.2d 1228 (CCPA, 1971).

The examiner takes official notice that the practice of forming sled components of polyethylene was old and well known in the art at the time the invention was made. Forming the body of Null et al. of polyethylene would have been obvious to one of ordinary skill in the art at the time the invention was made. This would provide the body with a relatively lightweight and durable composition.

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Claims 6 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Null et al. US 5,947,495 in view of Matheny US 5,810,376.

Null et al. does not disclose that the attachment mechanism comprises a bolt. However, Matheny teaches that the use of bolts 40 and 46 with attachment mechanisms was well known in the art at the time the invention was made. See figure 3. From the teaching of Matheny, providing the attachment mechanism of Null et al. with a bolt would have been obvious to one of ordinary skill in the art at the time the invention was made. This would allow the wheeled items to be removably secured by an inexpensive and reliable connector. Also, Applicant indicates that the use of a bolt is not critical. See page 5, lines 5-8, of the specification.

Claims 9 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Null et al. US 5,947,495 in view of Rohner US 6,213,484.

Null et al. does not disclose a handle with the body. However, Rohner teaches the common use of a handle 20 and 20' with the body of a toy sled. See figure 1. From the teaching of Rohner, providing the body of Null et al. with a handle would have been obvious to one of ordinary skill in the art at the time the invention was made. This would assist the operator in maintaining control and balance.

Claim Rejections - 35 USC § 103

Claims 10 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Null et al. US 5,947,495 in view of Wetzel US 3,374,000.

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Null et al. does not disclose a connector at the first end of the body and a connector receptacle at the second end of the body. However, Wetzel teaches that the practice of providing a toy sled with a connector 44 and 46 at a first end of a body and a connector receptacle 21 at a second end of the body was old and well known in the art at the time the invention was made. See figures 1 and 2. From the teaching of Wetzel, providing the sled of Null et al. with a connector at the first end of the body and a connector receptacle at the second end of the body would have been obvious to one of ordinary skill in the art at the time the invention was made. This would allow the sled to be formed into a train with other sleds.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Miller, Sovia et al., Tattersall et al., Shorter, Vargas, Way et al., and Kay disclose toy sleds. Favorito et al. discloses a toy sled with a handle. Christensen and Hager disclose toy sleds with connectors and connector receptacles for towing.

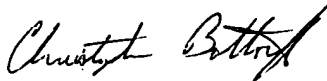
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Bottorff whose telephone number is (703) 308-2183. The examiner can normally be reached on Mon.-Fri. 7:30 a.m. - 4:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Johnson can be reached on (703) 308-0885. The fax phone numbers

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for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Christopher Bottorff
September 23, 2002



BRIAN L. JOHNSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

9/26/02